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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,452	10/17/2001	Michael Ficco	PD-201129	5121

7590 05/15/2007
Hughes Electronics Corporation
Patent Docket Administration
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EXAMINER

CHOWDHURY, SUMAIYA A

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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05/15/2007

PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/978,452
Filing Date: October 17, 2001
Appellant(s): FICCO, MICHAEL

Georgann S. Grunebach
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/09/07 appealing from the Office action mailed.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,249,913	Galipeau	6-2001
6,047,165	Wright	4-2000
5,835,127	Booth	11-1998
5,579,308	Humpleman	11-1996

6,353,699	Schwab	3-2002
5,565,908	Ahmad	10-1996
6,028,600	Rosin	2-2000
5,959,596	McCarten	9-1999
2001/0032028	Volpe	10-2001
5,838,314	Neel	11-1998
5,724,521	Dedrick	3-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-5, 7-8, 11, 13-15, 27-31, 33-34, 37, 39-41 and 54-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau (6249913) in view of Wright (6047165) and Booth (5835127).

As for claims 1 and 27, Galipeau discloses a system and method for aircraft multimedia distribution, comprising:

a multimedia server (190, 194, 196 – Fig. 9a) provided within an aircraft of an airline - col. 10, lines 46-65; and

a multimedia communications network (20 & 186 – Fig. 9a) within said aircraft coupled to said multimedia server – col. 10, lines 30-40; and

wherein said multimedia server is configured to distribute, over said aircraft multimedia communications network, multimedia in-flight to a device (226 – Fig. 12) of a passenger (col. 10, lines 46-65, lines 6-10, lines 50-53, col. 9, lines 25-30, col. 11, lines 1-3), the multimedia being selected via a web server (internet server 192 – Fig. 12) in communication with the multimedia server (The passenger selects content to view from the internet server - col. 7, lines 18-27. Referring to Fig. 9A, the web server is clearly in communication with the multimedia server.).

However, Galipeau fails to disclose wherein the multimedia is for purchasing by the passenger and that the multimedia is selected pre-flight.

In an analogous art, Wright discloses that the multimedia is selected pre-flight and uploaded to the aircraft via a server (204 – Fig. 1) for the advantage of preparing for the next flight or series of flights – col. 7, lines 6-32.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau's invention to include wherein the multimedia is for purchasing by the passenger and that the multimedia is selected pre-flight via a web server, as taught by Wright, for the advantage of preparing for the next flight or series of flights.

However, Galipeau and Wright fail to disclose that the multimedia is purchased by the passenger.

In an analogous art, Booth discloses that the passengers make immediate payments for multimedia services on an aircraft to allow use of the services – col. 5, lines 1-5.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau and Wright's invention to include that the multimedia is purchased by the passenger, as taught by Booth, for the advantage of using multimedia services on an aircraft.

As for claims 2 and 28, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said multimedia comprises one of streaming video, streaming audio, video for download, audio for download, data, sports and statistics (Video and audio programming is inclusive of streaming video, streaming audio, video for download, audio for download, and data. - col. 10, lines 8-10, lines 51-52, col. 11, lines 25-26).

As for claims 3 and 29, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said device is a laptop computer (226 – Fig. 12, col. 11, lines 55-56, col. 6, lines 65-66).

As for claims 4 and 30, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said multimedia communications network comprises is an IEEE 1394 communications network (Referring to Fig. 12, the network between network controller (186) and network interface card (228) is an IEEE 1394 communications network - col. 10, lines 30-35)

As for claims 5 and 31, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said multimedia server (190 – Fig. 12) is configured to distribute said multimedia in-flight to said device (226 – Fig. 12) of said passenger via a network interface device (228 – Fig. 12) coupled between said device of said passenger and said multimedia communications network (To communicate with any aircraft server, the data must go through the network interface device - col. 10, lines 47-60).

As for claims 7 and 33, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said network interface device is one of proprietary and specific to said airline - col. 12, lines 26-31.

As for claims 8 and 34, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said multimedia server is configured to distribute said multimedia in-flight to said device of said passenger via software device (software program) stored on said device of said passenger (226 – Fig. 12); (Using the software program on the personal computer, the user communicates with the headend controller which comprises of the multimedia server. The user requests and receives multimedia - col. 11, line 50 - col. 12, line 30).

As for claims 11 and 37, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said multimedia server is

configured to distribute simultaneously said multimedia in multiple streams to said device of said passenger – col. 9, lines 25-37, col. 10, line 64 – col. 11, line 3.

As for claims 13 and 39, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses an airline server (192– Fig. 9a) coupled to said multimedia server (190 – Fig. 9a) via a server communications network (100 BaseT) and configured to transmit, over said server communications network, said multimedia to said multimedia server (col. 10, lines 46-60, col. 12, lines 36-41).

As for claims 14 and 40, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said airline server (192 – Fig. 9a) is configured to communicate with said device (226 – Fig. 12) of said passenger via a passenger communications network (network between 192 and 226 in Fig. 12) to provide preflight functions with respect to the in-flight multimedia distribution (col. 10, lines 58-60, col. 11, line 65 – col. 12, line 25).

As for claims 15 and 41, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses wherein said passenger communications network comprises the Internet – col. 12, lines 12-20.

As for claim 54, Galipeau discloses a system for aircraft multimedia distribution, comprising:

means (aircraft) for providing a multimedia server (190, 194, 196 – Fig. 9a) within an aircraft of an airline - col. 10, lines 46-65; and

means (IEEE 1394 – Fig. 12) for coupling a multimedia communications network (20 & 186 – Fig. 9a) within said aircraft to said multimedia server – col. 10, lines 30-40; and

means (228 – Fig. 12) for distributing, via said multimedia server, over said aircraft multimedia communications network, multimedia in-flight to a device (226 – Fig. 12) of a passenger for viewing by said passenger (col. 10, lines 46-65, lines 6-10, lines 50-53, col. 9, lines 25-30, col. 11, lines 1-3) the multimedia being selected via a web server (internet server 192 – Fig. 12) in communication with the multimedia server (The passenger selects content to view from the internet server - col. 7, lines 18-27.

Referring to Fig. 9A, the web server is clearly in communication with the multimedia server.).

However, Galipeau fails to disclose wherein the multimedia is for purchasing by the passenger and that the multimedia is selected pre-flight.

In an analogous art, Wright discloses that the multimedia is selected pre-flight and uploaded to the aircraft via a server (204 – Fig. 1) for the advantage of preparing for the next flight or series of flights – col. 7, lines 6-32.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau's invention to include wherein the multimedia is for purchasing by the passenger and that the multimedia is selected pre-flight via a

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server, as taught by Wright, for the advantage of preparing for the next flight or series of flights.

However, Galipeau and Wright fail to disclose that the multimedia is purchased by the passenger.

In an analogous art, Booth discloses that the passengers make immediate payments for multimedia services on an aircraft to allow use of the services – col. 5, lines 1-5.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau and Wright's invention to include that the multimedia is purchased by the passenger, as taught by Booth, for the advantage of using multimedia services on an aircraft.

As for claim 55, Galipeau discloses:

Accessing a multimedia server (190, 194, 196 – Fig. 9a) over a communications network (20 & 186 – Fig. 9a) within an aircraft – col. 10, lines 30-40, lines 46-65;

Displaying a menu of options corresponding to a plurality of multimedia (User is presented with a number of videos to select from – col. 9, lines 28-33);

Receiving the corresponding one of the plurality of multimedia over the communications network – col. 10, lines 46-65, lines 6-10, lines 50-53, col. 9, lines 25-30, col. 11, lines 1-3.

Selecting multimedia via a web server (internet server 192 – Fig. 12) in communication with the multimedia server (The passenger selects content to view from

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the internet server - col. 7, lines 18-27. Referring to Fig. 9A, the web server is clearly in communication with the multimedia server.).

However, Galipeau fails to disclose selecting, pre-flight, one of the options for purchase of a corresponding one of the plurality of multimedia via a server.

In an analogous art, Wright discloses that the multimedia is selected pre-flight and uploaded to the aircraft via a server (204 – Fig. 1) for the advantage of preparing for the next flight or series of flights – col. 7, lines 6-32.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau's invention to include wherein the multimedia is for purchasing by the passenger and that the multimedia is selected pre-flight via a, as taught by Wright, for the advantage of preparing for the next flight or series of flights.

However, Galipeau and Wright fail to disclose that the multimedia is purchased by the passenger.

In an analogous art, Booth discloses that the passengers make immediate payments for multimedia services on an aircraft to allow use of the services – col. 5, lines 1-5.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau and Wright's invention to include that the multimedia is purchased by the passenger, as taught by Booth, for the advantage of using multimedia services on an aircraft.

As for claim 56, Galipeau, Wright, and Booth disclose the claimed limitations. In particular, Galipeau discloses the web server (192 – Fig. 9A) is resident within a data network different from the communications network (20 & 186 - Fig. 9A) for the advantage of not over-complicating the data network– col. 12, lines 36-45, col. 4, lines 13-20.

Claims 6 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, and Booth as applied to claims 5 and 31 above, and further in view of Humpleman (5579308).

As for claims 6 and 32, Galipeau discloses wherein the network interface device (228 – Fig. 12) is plug-in (col. 12, lines 1-7), but fails to disclose wherein said multimedia is encrypted, and said network interface device is a custom device configured to decrypt said multimedia.

In an analogous art, Humpleman discloses wherein the network interface device (50 – Fig. 4) decrypts multimedia received in the program stream – col. 7, lines 60-65. As the program stream is decrypted, it is encrypted when received.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein the network interface device decrypts the encrypted multimedia stream received, as taught by Humpleman, for the advantage of only allowing the intended recipient to unscramble the stream.

Claims 9 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, and Booth as applied to claim 8 and 34 above, and further in view of Schwab (6353699).

As for claims 9 and 35, Galipeau fails to disclose wherein said multimedia is compressed, and said software device is a custom software device configured to decompress said multimedia.

In an analogous art, Schwab discloses wherein the custom software decompresses multimedia for the advantage of opening a file which is compressed for saving space— col. 4, lines 44-48. As the multimedia needs to be decompressed, it is compressed when received.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau's invention to include wherein the custom software decompresses multimedia, as taught by Scwab, for the advantage of opening a file which is compressed for saving space.

Claims 10 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, and Booth as applied to claim 8 and 34 above, and further in view of Ahmad (5565908).

As for claims 10 and 36, Galipeau fails to disclose wherein said software device is specific to said airline.

In an analogous art, Ahmad discloses wherein the software is proprietary (specific to the airline) for the advantage of enabling the system to operate – col. 11, lines 27-30.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau's invention to include wherein the software is proprietary, as taught by Ahmad, for the advantage of enabling the system which is specific to the software to operate.

Claims 12 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, and Booth as applied to claim 11 and 37 above, and further in view of Rosin (6028600).

As for claims 12 and 38, Galipeau, Wright, and Booth fail to disclose wherein said multimedia server is configured to provide a menu on said device of said passenger for selection of one or more of said multiple streams of said multimedia.

In an analogous art, Rosin discloses wherein the menu of channels from which a user selects a multimedia stream from, is provided by the server (headend) – col. 5, lines 51-56, 64-67, col. 7, lines 13-25.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include

wherein the menu of channels from which a user selects a multimedia stream from, is provided by the server, as taught by Rosin, for the advantage of having everything at the headend such that less power and space is consumed at the receiver.

Claims 16 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, and Booth as applied to claim 14 and 40 above, and further in view of McCarten (5959596).

As for claims 16 and 42, Galipeau, Wright, and Booth fail to disclose wherein said pre-flight function comprises downloading of a software device to enable said in-flight distribution of said multimedia.

In an analogous art, McCarten discloses wherein application software (software device) is downloaded to the client for the advantage of enabling the client to access multimedia content on an aircraft – col. 4, lines 7-12, col. 1, lines 53-60.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein application software (software device) is downloaded to the client, as taught by McCarten, for the advantage of enabling the client to access multimedia content on an aircraft.

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Claims 17 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, Booth, and McCarten as applied to claim 16 and 42 above, and further in view of Ahmad (5565908).

As for claims 17 and 43, Galipeau, Wright, Booth, and McCarten fail to disclose wherein said software device is one of proprietary and specific to said airline.

In an analogous art, Ahmad discloses wherein the software is proprietary for the advantage of enabling the system to operate – col. 11, lines 27-30.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, Booth, and McCarten 's invention to include wherein the software is proprietary, as taught by Ahmad, for the advantage of enabling the system which is specific to the software to operate.

Claims 18-21 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, Booth, as applied to claims 13, 18, 39, and 44 above, and further in view of Volpe (2001/0032028)

As for claims 18 and 44, Galipeau, Wright, and Booth, fail to disclose wherein said airline server is configured to communicate with said device of said passenger via a passenger communications network to provide post-flight functions with respect to the in-flight multimedia distribution.

In an analogous art, Volpe discloses wherein the server offers the capability to the user to have the file mailed - paragraph [0024].

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein the server offers the capability to the user to have the file mailed, as taught by Volpe, for the advantage of allowing the user to have a multimedia file stored on a removable storage device such that the user could use the removable storage device on a plurality of computers.

As for claims 19 and 45, Galipeau, Wright, and Booth fail to disclose wherein said post-flight functions comprise organizing said multimedia for selection by said passenger.

In an analogous art, Volpe discloses wherein a multimedia file is sent to a client (32 – Fig. 4; passenger) – paragraph [0024]

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein a multimedia file is sent to a client, as taught by Volpe, for the advantage of allowing a client to have a personal copy saved on their own device on an aircraft.

As for claims 20 and 46, Galipeau, Wright, and Booth fail to disclose wherein said airline server is configured to provide copies of said multimedia to said passenger on a CD ROM based on a selection by said passenger.

In an analogous art, Volpe discloses wherein a CD ROM on which multimedia is stored, is mailed to the client – paragraph [0024].

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein a CD ROM on which multimedia is stored, is mailed to the client, as taught by Volpe, for the advantage of allowing the user to have a multimedia file stored on a removable storage device such that the user could use the removable storage device on a plurality of computers.

As for claims 21 and 47, Galipeau, Wright, and Booth fail to disclose wherein said airline server is configured to provide copies of said multimedia to said passenger via download to said device of said passenger based on a selection by said passenger.

In an analogous art, Volpe discloses wherein a multimedia file is sent to a client (32 – Fig. 4; passenger) through the Internet or as an attachment to an email– paragraph [0024]

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein a multimedia file is sent to a client, as taught by Volpe, for the advantage of allowing a client to have a personal copy saved on their own device on an aircraft.

Claims 22-24 and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, and Booth as applied to claims 1, 22, 27, and 48 above, and further in view of Neel (5838314).

As for claims 22 and 48, Galipeau, Wright, and Booth fail to disclose wherein said multimedia server is configured to store passenger-specific information relating to multimedia selection history for said passenger.

In an analogous art, Neel discloses wherein the data base (212 – Fig. 2; server) stores the video services (passenger-specific information) utilized by the user for the advantage of providing advertisements related to the video services selected by the user – col. 18, lines 31-42.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein the data base (212 – Fig. 2; server) stores the video services utilized by the user, as taught by Neel, for the advantage of providing advertisements related to the video services selected by the user.

As for claims 23 and 49, Galipeau, Wright, and Booth fail to disclose wherein said multimedia server is configured to distribute said multimedia based on said passenger-specific information.

In an analogous art, Neel discloses wherein the system distributes user-specific advertisements based on past video services selection history (passenger specific

information) for the advantage of providing advertisements geared more towards the preferences of the user – col. 18, lines 30-42.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein the system distributes user-specific advertisements based on past video services selection history, as taught by Neel, for the advantage of providing advertisements geared more towards the preferences of the user.

As for claims 24 and 50, Galipeau, Wright, and Booth fail to disclose wherein said multimedia server is configured to distribute passenger-specific advertisements included in said multimedia based on said passenger-specific information.

In an analogous art, Neel discloses wherein the systems control computer (118 – Fig. 2; server) selects and transmits advertisements based on information accumulated about the video services utilized by the user for the advantage of providing advertisements geared more towards the preferences of the user - col. 18, lines 30-42.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, and Booth's invention to include wherein the systems control computer (118 – Fig. 2; server) selects and transmits advertisements based on information accumulated about the video services utilized by the user, as taught by Neel, for the advantage of providing advertisements geared more towards the preferences of the user.

Claims 25, 26, 51, and 52, are rejected under 35 U.S.C. 103(a) as being unpatentable over Galipeau, Wright, and Booth in view of Neel as applied to claim 22, 24, 48, and 50 above, respectively, and further in view of Dedrick (5724521).

As for claims 25 and 51, Galipeau, Wright, Booth and Neel fail to disclose wherein said passenger-specific information is provided to said airline as a new marketable asset.

In an analogous art, Dedrick discloses wherein the user profile data based on the monitoring of consumer actions and inactions is provided to the advertiser to collect fees of displaying commercials for the advantage of displaying commercials to the user which are of user's interests – col. 3, lines 64-67, col. 5, lines 1-5, lines 20-30.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, Booth and Neel's invention to include wherein the user profile data based on the monitoring of consumer actions and inactions is provided to the advertiser to collect fees of displaying commercials, as taught by Dedrick, for the advantage of displaying commercials to the user which are of user's interests

As for claims 26 and 52, Galipeau, Wright, Booth and Neel fail to disclose wherein said advertisements are provided to said airline as part of a co-marketing agreement.

In an analogous art, Dedrick discloses wherein the advertisements are provided to a metering server (14 – Fig. 1) – col. 5, lines 9-15. As discussed above in claim 25, there is a co-marketing agreement as the user profile data is provided to the advertiser to collect fees for displaying commercials.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Galipeau, Wright, Booth and Neel's invention to include wherein the advertisements are provided to a metering server as part of a co-marketing agreement, as taught by Dedrick, for the advantage of deriving money from advertisers.

(10) Response to Argument

Introduction

With respect to Appellant's arguments that the Examiner conceded or did not meet the claimed limitation of "pre-flight selection of the multimedia via the web server", the Examiner respectfully disagrees. It appears that Appellant has misunderstood the Examiner's position. For the benefit of the Panel, the Examiner shall first explain the rejection of record and then subsequently address Appellant's arguments in light of the combined teachings.

Galipeau teaches a multimedia server (190, 194, 196 – Fig. 9a) provided within an aircraft of an airline (col. 10, lines 46-65), a multimedia communications network (20 & 186 – Fig. 9a) within said aircraft coupled to said multimedia server (col. 10, lines 30-40), and wherein said multimedia server is configured to distribute, over said aircraft multimedia communications network, multimedia in-flight to a device (226 – Fig. 12) of a

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passenger (col. 10, lines 46-65, lines 6-10, lines 50-53, col. 9, lines 25-30, col. 11, lines 1-3). Therefore, the examiner concludes that Galipeau does not teach the multimedia is for purchasing by the passenger and that the multimedia is selected pre-flight.

Booth was relied upon to teach that multimedia is for purchasing by the passenger on an aircraft (col. 5, lines 1-5).

Wright was relied upon to teach when the aircraft (101-fig. 1) is parked at the gate of the airport (200-fig. 1), multimedia is uploaded onto the aircraft via a web server (204 – fig. 1). The multimedia uploaded from web server 204 while the aircraft is parked at the gate is “selected” by a designated personnel of the airline in preparation for the next flight or series of flights (col. 7, lines 5-37). Therefore Wright was relied upon to teach that multimedia is selected preflight via a web server as claimed. The claim doesn’t require that the user per se does the selecting. The selecting limitation in the claim is open to read as the airline personnel does the selecting, as opposed to the passenger doing the selecting. Accordingly, it is the examiner’s position that one having ordinary skill in the art would have been sufficiently motivated to arrive at the claimed invention.

Rejection of Claims in view of Combined References:

Regarding claim 1, Appellant initially argues "...Galipeau et al. preclude the use of electronic devices during low elevation periods (page 10, lines 27 through 29). Thus, the pre-flight loading of the aircraft system with cached content does not mean that passengers select multi-media pre-flight via a web server as in the claimed inventions. Appellant would stress that Wright et al. neither disclose nor suggest the notion of enabling a passenger to make a pre-flight selection of multimedia, regardless of whether it was uploaded into the aircraft pre-flight" (pages 7-8).

In response, as previously noted, the claim does not require that the user or passenger select the media, per se. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Rather, as noted above, it is the Examiner's position that the multimedia is selected via the server of Wright. Since the multimedia is uploaded via Ethernet LAN running TCP/IP (commonly associated with the internet) the server 204 is considered a web server.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation was found in the references themselves. For example, both the Wright and Booth references are analogous because both are in the aircraft environment. The motivation used to combine the Wright reference was to prepare for the next flight or series of flights. The motivation used to combine the Booth reference was to allow passengers to use the services.

Regarding Appellant's arguments that the references teach away from the claimed invention, the Examiner recognizes that prior art reference that "teaches away" from the claimed invention is a significant factor to be considered in determining obviousness; however, "the nature of the teaching is highly relevant and must be weighed in substance." *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994). Appellant's argument regarding Galipeau precluding the use of electronic devices during low elevation periods misses the point since as previously noted the rejection relies upon the multimedia being uploaded while the aircraft is still parked at the airport rather than during or after take-off. Given that the references as applied are all directed to aspects of in flight entertainment systems and there does not appear to be any specific teaching away from the combination as applied, it is the examiner's position that the references do not teach away.

Appellant's arguments regarding the remaining claims do not present any arguments over and above those of claim 1. Consequently, the Examiner submits the remaining claims are likewise unpatentable for similar reasoning discussed above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



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AU2623

Conferees:

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